THE MYSORE AGRICULTURAL INCOME-TAX ACT, 1957

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SCHEDULE

MYSORE ACT No. 22 of 1957

(*First published in the* Mysore Gazette *on the Thirteenth Day of September* 1957).

THE MYSORE AGRICULTURAL INCOME-TAX ACT, 1957

(As amended by Acts 25 and 31 of 1962, 29 of 1963 and 28 of 1964)

(*Received the assent of the Governor on the Sixth Day of September* 1957)

AN ACT TO CONSOLIDATE AND AMEND THE LAWS PROVIDING FOR THE LEVY OF A TAX ON AGRICULTURAL INCOME FROM LANDS ON WHICH COMMERCIAL CROPS ARE RAISED IN THE STATE OF MYSORE.

WHEREAS it is expedient to consolidate and amend the laws providing for the levy of a tax on agricultural income from lands used for growing commercial crops in the State of Mysore;

BE it enacted by the Mysore State Legislature in the Eighth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. *Short title extent and commencement.*—(1) This Act may be called the Mysore Agricultural Income-tax Act, 1957.

(2) It extends to the whole of the State of Mysore.

[1](3) This section shall come into force at once and the remaining section of this Act shall come into force on such date as the State Government may by notification in the official Gazette appoint.

2. *Definitions.*—(1) In this Act, unless the context otherwise requiries,—

(*a*) "agricultural income" means—

(1) any rent or revenue derived from land which is used for growing all or any of the commercial crops and is either assessed to land revenue in the State or subject to a local rate assessed and collected by officers of the State Government as such;

(2) any income derived from such land by—

(i) agriculture, or

1. This Act has come into force on 1st October 1957.

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him in respect of which no process has been performed other than a process of the nature described in paragraph (ii);

(3) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind of any land with respect to which or the produce of which any operation mentioned in paragraphs (ii) and (iii) of sub-clause (2) is carried on :

Provided that the building is on or in the immediate vicinity of the land and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land requires as a dwelling house or as a store-house or other out-building ;

Explanation.—Income derived from any building means the receipts by way of rent from the building or portion thereof let out for rent.

(*b*) " agricultural income-tax " means the tax payable under [1][section 3];

(*c*) "Agricultural Income-tax Officer " means a person appointed to be an Agricultural Income-tax Officer under section 17 ;

[2][(*cc*) ' Appellate Tribunal ' means the Tribunal appointed under section 4 of the Mysore Sales Tax Act 1957 (Mysore Act 25 of 1957)];

(*d*) " assessee " means a person by whom agricultural income-tax is payable ;

[2][(*dd*) ' Assistant Commissioner ' means a person appointed to be an Assistant Commissioner of Agricultural Income-tax under section 17];

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1 Substituted by Act 31 of 1962.

2 Inserted by Act 29 of 1963.

(*e*) "commercial crop" means any plantation crop, areca, [1][castor], chillies, coconut, coriander, cotton, ganja, garlic, ginger, grapes, groundnut, [1][karad], mango, mulberry, [1][mustard], nigar, onion, plantain (irrigated), potato, sesamum (til), sugarcane, [timber][1] tobacco or turmeric;

[2][*Explanation.*—(1) Commercial crop shall not include plaintain, when grown on land on which areca or coconut is grown as a main crop.

[3][*Explanation 2.*—Timber shall not include trees proved to be of spontaneous growth not involving any human labour or skill in their planting or growth.

(*f*) "Commissioner" means a person appointed to be the Commissioner of Agricultural Income-tax under section 17;

(*g*) "company" means a company as defined in the Companies Act, 1956 (Central Act 1 of 1956) and includes any foreign association, whether incorporated or not, which the State Government may, by general or special order declare to be a company for the purposes of this Act;

(*h*) "Deputy Commissioner" means a person appointed to be a Deputy Commissioner of Agricultural Income-tax under section 17;

(1) "dividend" includes—

(i) any distribution by a company of accumulated profits, whether capitalized or not, if such distribution entails the release by the company to its shareholders of all or any part of the assets of the company;

(ii) any distribution by a company of debentures or debenture stock to the extent to which the company possesses accumulated profits, whether capitalized or not;

(iii) any distribution made to the shareholders of a company out of accumulated profits, of the company on the liquidation of the company:

Provided that only the accumulated profits so distributed which arose during the six previous years of the company preceding the date of liquidation shall be so included; and

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1. Inserted Act 29 of 1963.
2. Numbered by Act 29 of 1963.
3. Added by Act 29 of 1963.

(iv) any distribution by a company on the reduction of its capital to the extent to which the company possesses accumulated profits whether such accumulated profits have been capitalized or not :

Provided that " dividend " does not include a distribution in respect of any share issued for full cash consideration which is not entitled in the event of liquidation to participate in the surplus assets, when such distribution is made in accordance with sub-clause (iii) or (iv);

Explanation.—The words " accumulated profits " wherever they occur in this clause shall not include " capital profit ";

(*j*) " earned agricultural income " means any agricultural income derived from personal cultivation of land, by an assessee, who is an individual, Hindu undivided family, unregistered firm or other association of persons not being a company or registered firm and includes any such agricultural income which, though it is the agricultural income of another person is included in the assessee's agricultural income under the provisions of this Act, but does not include any such agricultural income which is exempt from tax under section 12 :

Provided that in the ctse of a registered firm or a firm treated as registered under clause (*b*) of sub-section (*5*) of section 19, the share of income of such partners are actively engaged in the management or cultivation of lands of the firm from which the agricultural income is derived, shall be considered as " earned agricultural income" in the hands of such persons.

Explanation.—(1) Land shall be deemed to be cultivated personally, if it is cultivated on one's own account—

(i) by one's own labour, or
by servants on wages payable in cash or kind but not by way of a share in crops under one's personal supervision or the personal supervision of any member of one's family, or

(ii) by the labour of any member of one's family, or by hired labour under one's personal supervision or the personal supervision of any member of one's family.

(2) Personal supervision means supervision under one's immediate presence or the immediate presence of any member of his family.

(3) In the case of a Hindu undivided family, land shall be deemed to have been cultivated personally if it is cultivated by any member of such family;

(*k*) "financial year" means the year beginning on the 1st April and ending on the 31st March next following;

(*l*) "firm", "partner" and "partnership" have the same meanings, respectively, as in the Indian Partnership Act, 1932 (Central Act IX of 1932) but the expression "partner" shall include any person who being a minor has been admitted to the benefits of partnership;

(*m*) "Hindu undivided family" includes a family governed by—

(i) the Coorg customary law or usage; or

(ii) the Madras Nambudri Act, 1932 (Madras Act XXI of 1933);

(*n*) "Landlord" means any individual who receives rent for land either in cash or kind from a tenant;

(*o*) "Marumakkattayam tarwad or tavazhi" means a tarwad or tavazhi governed by the Madras Marumakkattayam Act, 1932 (Madras Act XXII of 1933), or the Mapilla Marumakkattayam Act, 1939 (Madras Act XVII of 1939); and in the case of tavazhi possessing separate properties the provisions of this Act shall apply as if the tavazhi were a tarwad;

(*p*) "person" means any individual or association of individuals, owning or holding property for himself or for any other, or partly for his own benefit and partly for another, either as owner, trustee, receiver, common manager, administrator or executor or in any capacity recognized by law, and includes an undivided Hindu Mitakshara family, an Aliyasanthana family or branch, a Marumakkattayam tarwad or a tavazhi possessing separate properties, or a Nambudri or other family to which the rule of impartibility applies. a firm or a company, an association of individuals, whether incorporated or not, and any institution capable of holding property;

(*q*) "plantation crop" means cardamom, coffee, linaloe, orange, pepper, rubber or tea;

[1][*Explanation*].—[x x x x].

(*r*) "prescribed" means prescribed by rules made under this Act;

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1 Explanation Omitted by Act 29 of 1963 (from 1st April 1963).

(*s*) "previous year" means—

(i) the twelve months ending on the 31st day of March preceeding the year for which the assessment is to be made, or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then at the option of the assessee the year ending on the day to which his accounts have been so made up :

Provided that, if the option has once been exercised by an assessee, he shall not exercise it again so as to vary the meaning of the expression "previous year" as then applicable to him except with the consent of the Agricultural Income-tax Officer and upon such conditions as he may think fit ; or

(ii) such period as may be determined by the Commissioner in the particular case of any person or class of persons ;

(*t*) "principal officer" used with reference to any company or association means :—

(i) the Secretary, treasurer, manager or agent of the company or association, or

(ii) any person connected with the company or association upon whom the Agricultural Income-tax Officer has served a notice of his intention of treating him as principal officer thereof ;

(*u*) "registered firm" means a firm registered under the provisions of section 29 ;

[1][(*v*) "State" or "State of Mysore" means the State of Mysore comprising the territories specified in clauses (*a*), (*b*), (*c*) (*d*) and (*e*) of sub-section (1) of section 7 of the States Reorganisation Act, 1956 (Central Act 37 of 1956);]

[2][(*vv*) "super-tax" means a tax payable under section 43-A;]

(*w*) "total agricultural income" means the aggregate of all agricultural income derived by a person from land situated in the State of Mysore whether received by him within or without the State computed in accordance with the provisions of section 5 and includes all income of the description specified in section 11 and all receipts of the description specified in clauses (*a*), (*c*) and (*d*) of

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1 Substituted by Act 25 of 1962.

2 Inserted by Act 31 of 1962.

section 12 and any sum which is exempt from tax under clause (*e*) or clause (*g*) of section 12 or under section 13.

(2) The Mysore General Clauses Act, 1899 (Mysore Act III of 1899) shall apply for the interpretation of this Act as it applies for the interpretation of a Mysore Act.

CHAPTER II

Charge of Agricultural Income-Tax

3. *Charge of agricultural income tax.*—(1) Agricultural Income-tax at the rate or rates specified in Part I of the Schedule to this Act shall be charged for each financial year commencing from the first April 1957 in accordance with and subject to the provisions of this Act, on the total agricultural income of the previous year of every person.

(2) Where there is included in the total agricultural income of an assessee any income exempted from agricultural income-tax by or under the provisions of this Act, the agricultural income-tax payable by the assessee shall be an amount bearing to the total amount of the agricultural income-tax which would have been payable on the total agricultural income had no part of it been exempted, the same proportion as the unexempted portion of the total agricultural income bears to the total agricultural income.

(3) In the case of persons holding property as tenants-in-common and deriving agricultural income, the tax shall be assessed at the rate applicable to the agricultural income of each tenant-in-common.

4. *Application of the Act.*—Save as hereinafter provided, this Act shall apply to all agricultural income derived from land situated in the State of Mysore by any person whether resident in the State or not.

5. *Computation of agricultural income.*—The agricultural income of a person shall be computed after making the following deductions, namely :—

(*a*) any sums paid in the previous year on account of—

(i) land revenue, local rates and cesses and municipal taxes in respect of the land from which the agricultural income is derived ; and

(ii) any excise duty or tax as may be prescribed in respect of the agricultural produce from such land ;

(*b*) any rent paid in the previous year to the landlord, or superior landlord as the case may be, in respect of the land from which the agricultural income is derived ;

(*c*) any expenses incurred in the previous year on the maintenance of any irrigation or protective work constructed for the benefit of the land from which the agricultural income is derived ;

(*d*) any expenses incurred in the previous year, on repairs, in respect of any capital asset which was purchased or constructed for the benefit of the land from which the agricultural income is derived ;

(*e*) in respect of depreciation of buildings, machinery, plant, fencing materials, house pipes and furniture which are the property of the assessee and which are required for the purpose of deriving the agricultural income, a sum equivalent to such percentage on the written down value thereof as may in any case or class of cases be prescribed and where the buildings have been newly erected, or the machinery or plant being new has been installed, a further sum subject to such conditions as may be prescribed :

Provided that—

(1) the prescribed particulars have been duly furnished ;

(2) where full effect cannot be given to any such allowance in any year owing to there being no agricultural income chargeable for that year, or owing to the agricultural income chargeable being less than the allowance, then subject to the provisions of the second proviso to section 15, the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance or depreciation for the following year and deemed to be part of that allowance or if there is no such allowance for that year, be deemed to be the allowance for the next year, and so on for succeeding years ; and

(3) the aggregate of all such allowances made under this Act shall, in no case, exceed the original cost to the assessee of the buildings, machinery, plant or furniture as the case may be ;

(*f*) in respect of any such building, machinery or plant which has been sold or discarded or demolished or destroyed, the amount by which the written down value thereof exceeds the amount for which the building, machinery or plant, as the case may be, is actually sold for its scrap value :

Provided that such amount is actually written off in the books of the assessee:

Provided further that where the amount for which any such building, machinery or plant is sold, whether during the continuance of the agricultural operations or after the cessation thereof, exceeds the written down value, so much of the excess as does not exceed the difference between the original cost and the written down value shall be deemed to be profits of the previous year in which the sale took place:

Provided further that for the purposes of this clause, the original cost of a building, the written down value of which is determined in accordance with the Explanation to this section, shall be deemed to be the written down value so determined as at the date of its being brought into use for the purposes of deriving the agricultural income;

(*g*) any interest paid in the previous year on any amount borrowed and actually spent on any capital expenditure incurred for the benefit of the land from which the agricultural income is derived;

(*h*) where the land from which the agricultural income is derived is subject to a mortgage or other capital charge, any interest paid in the previous year in respect of such mortgage or charge;

(*i*) any interest paid in the previous year on any debt, whether secure or not, incurred for the purpose of acquiring the land from which the agricultural income is derived:

Provided that the interest allowable under clauses (*g*), (h) and (*i*) shall not exceed, in the case of a secured loan, seven and half per cent per annum simple interest, and in the case of an unsecured loan twelve per cent per annum simple interest;

(j) any interest paid in the previous year on any amount borrowed and actually spent on the land on which the agricultural income is derived:

Provided that the need for borrowing was *bona fide* having regard to the assets of the assessee at the time:

Provided further that the interest allowed under this clause shall be the actual interest paid subject to a maximum of twelve per cent per annum on the amount borrowed and spent on the land;

(*k*) any expenditure (not being in the nature of capital expenditure) laid out or expended in the previous year wholly and exclusively for the purpose of deriving the agricultural income;

[1][Provided that the following amounts shall not be deemed to be expenditure laid out or expended for the purpose of deriving the agricultural income,—

(i) in the case of any firm, any payment of interest, salary, bonus, commission or remuneration made by the firm to any partner of the firm ;

(ii) in the case of any company, any expenditure which results directly or indirectly in the provision of any remuneration or benefit or amenity to a director or to a person who has a substantial interest in the company or to a relative of the director or of such person, as the case may be, if in the opinion of the Agricultural Income-tax Officer any such expenditure is excessive or unreasonable having regard to the legitimate business needs of the company and the benefit derived by or accruing to it therefrom ; ;]

(*l*) such other deductions as may be prescribed generally or in particular cases ;

(*m*) in the case of agricultural income under the head rent or revenue derived from land referred to in sub-clause (1) of clause (*a*) of section 2—

(*i*) any expenses actually incurred in the previous year in the collection of agricultural income ;

(*ii*) any expenses incurred in the previous year on repairs in respect of any capital asset used in connection with the collection of rents due in respect of the land from which the agricultural income is derived ;

(*n*) in the case of agricultural income referred to in sub-clause (2) of clause (*a*) of section 2—

(*i*) the expenses other than capital expenditure incurred in the previous year of raising the crop from which agricultural income is derived and of transporting such crop to market, including the maintenance of agricultural implements and cattle required for such cultivation and transport or both ;

(*ii*) the cost incurred in the previous year in the purchase or replacement of cattle or implements, which are necessary for cultivation, to such extent as may be prescribed, less the amount realised by sale of the cattle or implements replaced or their estimated value ;

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1 Substituted by Act 28 of 1964 and operative from 1st April 1964.

(*iii*) any sum paid in the previous year in order to effect an insurance against loss or damage of crops or property from which the agricultural income is derived :

Provided that any amount received in respect of such insurance in any year shall be deemed to be agricultural income for the purposes of this Act, and shall be liable to agricultural income-tax after deducting the portion thereof if any, which has been assessed to income-tax under the [1][Indian Income-tax Act, 1922 (Central Act XI of 1922) ;

(*iv*) any expenses incurred in the previous year on the maintenance of any capital asset if such maintenance is required for the purpose of deriving the agricultural income :

Provided that no deduction shall be made under this section if it has already been made in the assessment under the [1][Indian Income-tax Act, 1922 (Central Act XI of 1922).

[3][*Explanation.*—(1) For the purposes of this section [2][' building ' includes all structures constructed with a view to provide amenities to workers as defined in the Plantations Labour Act, 1951 (Central Act 69 of 1951) employed in Plantations :] " plant " includes vehicles and scientific apparatus purchased for the purpose of deriving the agricultural income ; and for the purpose of deriving the agricultural income [2][' relative '] in relation to an individual means the husband, wife, brother or sister or any lineal ascendant or descendant, of that individual ;] and " written down value " means ;;—

(i) in the case of assets acquired in the prevous year the actual cost to the assessee ; and

(ii) in the case of assets acquired before the previous year, the actual cost to the assessee less such sum as may be prescribed.

[4][*Explanation.*—(2) Nothing contained in this section shall be deemed to entitle a person deriving agricultural income to the deduction of any expenditure laid out or expended for the cultivation, upkeep or maintenance of immature plants (other than tea plants) from which no agricultural income has been derived during the previous year]

[5][Provided that if an any year any expenditure is incurred exclusively on new cultivation of land for growing areca, cardamom, coconut, coffee, orange or rubber

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1. Now see the Income Tax Act, 1961 (Central Act 43 of 1961).
2. Inserted by Act 28 of 1964 and operative from 1st April 1964.
3. Renumbered by Act 39 of 1963 (with effect from 1st April 1963.
4. Added by Act 29 of 1963.
5. Inserted by Act 28 of 1964 and operative from 1st April 1964.

plants and also on maintenance of immature plants of areca, cardamom, coconut, coffee, orange or rubber, ten per cent of such expenditure may be deducted from the agricultural income of such person :]

Provided [1][further] that if in any year any expenditure is incurred for replanting of cardamom, coffee, orange or rubber plants in any plantation or of areca plants in any areca garden, such expenditure not exceeding the amount necessary for replanting—

two and a half per cent of the acreage of plantation held by the person concerned in the case of coffee or rubber plants,

one and two-thirds per cent of the acreage of garden or plantation held by the person concerned in the case of areca or orange plants ; and

eight and one-third per cent of the acreage of plantation held by the person concerned in the case of cardamom plants ;

may be deducted from the agricultural income of such person :

Provided further that if the replanting expenditure allowance under the preceding proviso is not incurred in one year, the allowance for the year or years may be carried forward for a period of three years in the case of areca, coffee, orange and rubber and one year in the case of cardamom, beyond the year of assessment.]

6. *Assessment of income derived from lands partly within the State and partly without.*—Where agricultural income is derived from land situated partly within the State and partly without the State, agricultural income-tax shall be levied under this Act—

(i) where the portion of such income attributable to the lands situated within the State can be determined from accounts maintained by the assessee, on the portion so determined ;

(ii) where the portion of the income so attributable cannot be determined by the method specified in clause (*i*) on such portion as may be determined in the prescribed manner.

7. *Method of accounting.*—Agricultural income shall be computed for the purpose of sections 5 and 6 in accordance with the method of accounting regularly employed by the assessee :

Provided that, no method of accounting has been regularly employed by the assessee, or if the method employed is such that, in the opinion of the Agricultural Income-tax Officer, the agricultural

1. Inserted by Act 28 of 1964.

income cannot properly be deduced therefrom, then the computation shall be made upon such basis and in such manner as he may determine :

Provided further that in the case of coffee crop of an assessee, the agricultural income therefrom may be computed on the basis of valuation on points declared by the Indian Coffee Board in respect of such crop.

8. *Assessment of agricultural income in regard to tea.*—In the case of cultivation and manufacture of tea, the agricultural income for the purposes of this Act shall be deemed to be that portion of the income from cultivation, manufacture and sale computed under the [1][Indian Income-tax Act, 1922 (Central Act XI of 1922)] which is excluded from taxation under that Act as being agricultural income, after deducting from the said portion any allowance authorized by this Act in so far as the same has not been allowed in the computation of the income for the purposes of the [1][Indian Income-tax Act, 1922 (Central Act XI of 1922)].

9. *Assessment of a Hindu undivided Family.*—(1) The total agricultural income of a Hindu undivided family shall be treated as the income of one individual and assessed as such.

(2) In the case of a Marumakkattayam tarwad or Aliyasantana family, the total agricultural income of the tarwad or family shall be assessed on the karnavan of he tawad or the manager of the family and treated as the income of one individual for the purpose of levy of agricultural income-tax :

Provided that in cases where properties have been set apart for each tawazi in the tarwad or branch of the family for maintenance under any family arrangement, the karnavan, manager or other person in management of the tavazhi or branch shall be assessed separately.

(3) In the case of a family governed by the Coorg Customary Law, or a family owning jama properties, where a division for maintenance has taken place tax shall be levied on the income of each share of the family.

10. *Liability of Court of Wards, Administrator-General, etc.*—(1) (*a*) In the case of agricultural income taxable under this Act, which the Court of Wards, Administrator-General or Official Trustee or any receiver, administrator, executor, trustee, guardian or manager appointed by or under any law or by an order of Court or by written agreement, is entitled to receive on behalf of any person, the tax shall be levied upon and recoverable from the Court of Wards,

1. Now see the Income Tax Act, 1961 (Central Act 43 of 1961).

Administrator-General, official trustee, or from such receiver, administrator, executor, trustee, guardian or manager as the case may be, in the like manner and to the same amount as it would be leviable upon and recoverable from the person on whose behalf such agricultural income is receivable and all the provisions of this Act shall apply accordingly.

(*b*) Where the agricultural income received on behalf of any person by the Court of Wards, Administrator-General, official trustee, receiver, administrator, executor, trustee, guardian or manager referred to in clause (*a*) is part only of the total agricultural income of such person, the agricultural income-tax payable under this Act shall be assessed on the total agricultural income of such person and the amount of tax as so assessed shall be levied upon and recoverable from the Court of Wards, Administrator-General, official trustee, receiver, administrator, executor, trustee, guardian or manager, as the case may be, and from such person rateably according to the portion of the total agricultural income of such person received by the Court of Wards, Administrator-General, official trustee, receiver, administrator, executor, trustee, guardian or manager, as the case may be, and the portion received by such person.

(*c*) Nothing contained in this sub-section shall prevent either the direct assessment of the person on whose behalf the agricultural income is receivable or the recovery from such person of the tax payable in respect of such income.

(2) (*a*) Save as provided in sub-section (1) if a person holds land from which agricultural income in derived partly for his own benefit and partly for the benefit of others or wholly for the benefit of others agricultural income-tax shall be assessed on the total agricultural income derived from such land at the rate which would be applicable if such person had held the land exclusively for his own benefit.

(*b*) Any person holding such land shall be entitled, before paying to any beneficiary the amount of agricultural income which such beneficiary is entitled to receive, to deduct the amount of agricultural income-tax at the rate at which income is or will be assessed under clause (*a*).

11. *Income from settlement, disposition, etc.*—(1) All agricultural income arising to any person by virtue of a settlement or disposition whether revocable or not, and whether effected before or after the commencement of this Act, from assets remaining out of the property of the settler or disposer shall be deemed to be the agricultural income of the settler or disposer, and all agricultural income

arising to any person by virtue of a revocable transfer of assets shall be deemed to be the agricultural income of the transferor :

Provided that, for the purposes of this sub-section, a settlement, disposition or transfer shall be deemed to be revocable if it contains any provision for the re transfer directly or indirectly of the agricultural income or assets to the settler, disposer or transferor or in any way gives the settler, disposer or transferor a right to re-assume power directly or indirectly over the agricultural income or assets :

Provided further that the expression " settlement or disposition " shall, for the purposes of this sub-section, include any disposition, trust, covenant, agreement or arrangement and the expression " settler or disposer " in relation to a settlement or disposition shall include any person by whom the settlement or dispositior was made :

Provided also that this sub-section shall not apply to any agricultural income arising to any person by virtue of a settlement or diposition which is not revocable for a period exceeding six years or during the life time of the person and from which agricultural income the settler or disposer derives no direct or indirect benefit but that the settler shall be liable to be assessed on the said agricultural income as and when the power to revoke arises to him.

(2) In computing the total agricultural income of an individual, there shall be included.—

(a) so much of the agricultural income of a wife or minor child of an individual as arises directly or indirectly—

(i) from the membership of the wife in a firm of which her husband is a partner ;

(ii) from the admission of the minor to the benefits of partnership in a firm of which such individual is a partner ;

(iii) from assets transferred directly or indirectly to the wife by the husband otherwise than for adequate consideration or in connection with an agreement to live apart ;

(iv) from assets transferred directly or indirectly to the minor child not being a married daughter by such individual otherwise than for adequate consideration;

(*b*) so much of the agricultural income of any person or association of persons as arises from assets transferred otherwise than for adequate consideration to the person or association by such individual for the benefit of his wife or minor child or both.

12. *Exemption from assessment of income-tax.*—Agricultural income-tax shall not be payable on that part of the total agricultural income of a person which is—

(*a*) any sum which he receives out of the agricultural income of a Hindu undivided family, Marumakkattayam tarwad or aliya santhana family if he receives such sum as a member of the family or tarwad and tax under this Act has been levied on the agricultural income ;

(*b*) any dividend which he receives as a shareholder out of the agricultural income of a company which has certified that it has paid or will pay the tax under this Act in respect of the agricultural income of such company ;

(c) any sum which he receives as his share out of the agricultural income of a firm or association of persons, if the tax under this Act has been levied on the agricultural income of such firm or association ;

(*d*) any sum which he receives out of the agricultural income in respect of which tax under this Act has already been levied under section 10 ;

(*e*) any sum paid by such person.—

(i) to effect an insurance on the life of such person or on the life of a wife or husband of such person or in respect of a contract for a deferred annuity on the life of such person or on the life of a wife or husband of such person;

(*ii*) where the assessee is a member of a Hindu undivided family, Marumakkattayam tarwad or aliyasanthana family, to effect an insurance on the life of any member of such family :

Provided that the aggregate of any sums exempted under this clause shall not exceed one-sixth of the total agricultural income of the assessee :

Provided further that nothing contained in this clause shall be deemed to entitle a person who is assessed to income-tax under the [1][Indian Income-Tax Act, 1922 (Central Act XI of 1922)], to claim any deduction in respect of any sum referred to in this clause if it was exempted under section 15 of the said Act ;

(*f*) any sum derived from land held under a trust or other legal obligation wholly or partly for public purposes of a charitable or religious nature and actually spent for the said purposes ;

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1. Now see the Income Tax Act, 1961 (Central Act 43 of 1961).

(*g*) any sums paid by such person as donations to any institution or fund which is established for charitable purposes and is approved by the State Government for the purpose of this section;

Provided that each such sum is not less than two hundred and fifty rupees.

[1][*Explanation.*—In this section,—

(1) 'charitable purpose', includes relief of the poor, education, medical relief and the advancement of any other object of general public utility not involving the carrying on of any activity for profit;

(2) 'institution which is established for a charitable purpose', includes an institution which is financed wholly or in part by the Government or a local authority whether owned by the Government or a local authority or not.]

13. *Exemption of portion of earned agricultural income.*—The tax shall not be payable by an assessee in respect of such portion, if any of the earned agricultural income included in the total agricultural income as does not exceed ten per cent of the total agricultural income chargeable to agricultural income-tax under section 3 and for the purposes of determining the rate of agricultural income-tax payable by an assessee the total agricultural income shall be deemed to be the total agricultural income reduced by the said portion:

Provided that the portion of earned agricultural income exempt from tax under this section shall not exceed.—

(*a*) in the case of a Hindu undivided family, four thousand rupees and,

(*b*) in any other case, two thousand rupees.

14. *Non-residents.*—(1) In the case of any person residing outside the State, his total agricultural income shall be chargeable to agricultural income-tax either in his name or in the name of his agent and in the later case, such agent shall be deemed to be for all the purposes of this Act, the assessee in respect of such tax.

(2) Any person employed by or on behalf of a person residing out of the State, or through whom the non-resident person is in receipt of any agricultural income upon whom the Agricultural Income-tax Officer has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for all the purposes of this Act, be deemed to be such agent:

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1 Substituted by Act 29 of 1963.

Provided that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the Agricultural Income-tax Officer as to his liability.

(3) Where a notice under this Act has to be served on a non-resident person, it shall be served in the prescribed manner.

15. *Carrying forward of loss.*—Where any person sustains a loss in agricultural income in any year, the loss shall be carried forward to the following year and set off against the agricultural income for that year and if it cannot be wholly so set off, the amount of loss not so set off shall be carried forward to the following year and so on, but no loss shall be carried forward for more than six years:

Provided that, in the case of loss sustained before the commencement of this Act, this section shall apply only to such loss as was sustained in the previous year immediately before such commencement:

Provided further that where depreciation allowance is also to be carried forward under proviso (2) to clause (*e*) of section 5, effect shall first be given to the provisions of this section.

16. *Certificate in respect of payment of tax by companies.*—The principal Officer of every company shall at the time of the distribution of dividends, furnish to every person receiving a dividend a certificate to the effect that the company has paid or will pay agricultural income-tax on the profits which are being distributed, and specifying such other particulars as may be prescribed.

CHAPTER III.

Income-tax Authorities

17. *Income-tax Authorities.*—(1) There shall be the following classes of income-tax authorities for the purposes of this Act, namely:—

(*a*) Commissioner of Agricultural Income-tax;

(*b*) Deputy Commissioner of Agricultural Income-tax;

[1][(*bb*) Assistant Commissioner of Agricultural Income-Tax;]

(*c*) Agricultural Income-tax Officers;

(2) The authorities specified in sub-section (1) shall be appointed by the State Government and shall exercise such powers

1 Inserted by Act 29 of 1963.

and perform such functions and duties under this Act in respect of such classes of persons or classes of income and in such areas, as the State Government may, by notification in the official Gazette, direct.

[1][(2A) (*a*) The Commissioner may, by general or special order in writing, direct that the powers conferred on the Agricultural Income-Tax Officer by or under this Act, shall, in respect of any specified case or classes of cases or of any specified persons or classes of persons, be exercised by the Assistant Commissioner of Agricultural Income-Tax.

(*b*) Where an order under clause (*a*) is issued, then for the purposes of any case or person in respect of which any such order applies, reference in this Act or in any rule made thereunder to the Agricultural Income-Tax Officer shall be deemed to be reference to the Assistant Commissioner of Agricultural Income-Tax.]

(3) The State Government may, by notification in the official Gazette, empower any officers other than the authorities specified in sub-section (1) to exercise such powers and perform such functions and duties under this Act in respect of such classes of persons or classes of income and in such areas, as may be specified in the notification.

(4) The authorities specified in sub-section (1) and the officers specified in sub-section (3) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (Central Act XLV of 1860).

(5) All Officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the [2][State Government and the Commissioner]:

Provided that no such order, direction or instruction shall be given so as to interfere with the discretion of any appellate authority in the exercise of its appellate functions .

CHAPTER IV

Return of Income, Assessment, etc.

18. *Return of income.*—(1) Every person whose total agricultural income during the previous year exceeded the maximum amount which is not chargeable to agricultural income-tax shall furnish to the Agricultural Income-tax Officer so as to reach him before

1 Inserted by Act 29 of 1963.
2 Substituted by Act 29 of 1963.

the 1st June every year a return in the prescribed form and verified in the prescribed manner, setting forth his total agricultural income during the previous year.

(2) In the case of any person whose total agricultural income is, in the opinion of the Agricultural Income-tax Officer, of such amount as to render such person liable to payment of agricultural income-tax for any financial year, he may [1][before the end of the relevant financial year, serve] a notice in the prescribed form requiring such person to furnish within such period not being less than thirty days as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total agricultural income during the previous year.

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2) or, having furnished a return under any of those sub-sections discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

(4) The Agricultural Income-tax Officer may serve on any person who has made a return under sub-section (1) or upon whom a notice has been served under sub-section (2) a notice requiring him, on a date to be therein specified to produce, or cause to be produced, such accounts or documents as such officer may require :

Provided that such officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

19. *Assessment of income.*—(1) If the Agricultural Income-tax Officer is satisfied that a return made under section 18 is correct and complete, he shall, by order in writing, assess the total agricultural income of the assessee and determine the sum payable by him on the basis of such return.

(2) If the Agricultural Income-tax Officer is not satisfied without requiring the presence of the person who made the return or he shall serve on the person who made the return a notice requiring him on the date specified therein, either to attend at the office of the Agricultural Income-tax Officer or to produce or to cause to be produced, and evidence on which such person may rely in support of the return.

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1. Substituted by Act 29 of 1963.

(3) On the day specified in the notice under sub-section (2) or as soon afterwards as may be, the Agricultural Income-tax Officer, after considering such evidence as such person may produce and such other evidence as that officer may require on specified points, shall by an order in writing assess the total agricultural income of the assessee and determine the sum payable by him on the basis of such assessment.

(4) If any person fails to make a return under sub-section (1) or sub-section (2) of section 18, as the case may be, or fails to comply with all the terms of a notice issued under sub-section (4) of that section or under sub-section (2) of this section, the Agricultural Income-Tax Officer shall make the assessment to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment, and in the case of a firm, may refuse to register it or may cancel its registration if it is already registered :

Provided that the registration of a firm shall not be cancelled until fourteen days have elapsed from the issue of a notice by the Agricultural Income-Tax Officer to the firm intimating his intention to cancel its registration :

[1][Provided further that before making an assessment to the best of his judgement, the Agricultural Income-Tax Officer shall give to the assessee a reasonable opportunity of being heard.]

(5) Notwithstanding anything contained in the foregoing sub-section, when the assessee is a firm and the total income of the firm has been assessed under sub-section (1), sub-section (3), or sub-section (4), as the case may be—

(*a*) in the case of a registered firm, the sum payable by the firm itself shall not be determined but the total income of each partner of the firm, including therein his share of its income, profits and gains of the previous year, shall be assessed, and the sum payable by him on the basis of such assessment shall be determined :

Provided that, if such share of any partner is a loss, it shall be set off against his other income or carried forward and set off in accordance with the provisions of section 15 :

Provided further that, when any of such partners is a person not resident in the State, his share of the income, profits and gains of the firm shall be assessed on the firm at the rates which would be applicalbe if it were assessed on him personally, and the sum so determined as payable shall be paid by the firm, and

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1. Inserted by Act 29 of 1963.

(b) in the case of an unregistered firm, the Agricultural Income-Tax Officer may, instead of determining the sum payable by the firm itself, proceed in the manner laid down in clause (*a*) as applicable to a registered firm, if in his opinion, the aggregate amount of the tax greater than the aggregate amount which would be greater than the aggregate amount which would be firm payable by the firm and the partners individually if the firm were assessed as an unregistered firm.

(6) Whenever the Agricultural Income-tax Officer makes a determination in accordance with the provisions of sub-section (5) he shall notify to the firm by an order in writing the amount of the total income on which the determination has been based and the apportionment thereof between the several partners.

(7) When in the course of the assessment of the total agricultural income of the assessee it is found that a loss has been sustained which he is entitled to have set off under section 15, the Agricultural Income-Tax Officer shall notify to the assessee by order in writing the amount of the loss as computed by him.

20. *Powers to make provisional assessment in advance of regular assessment.*—(1) The Agricultural Income-tax Officer may, at any time after the receipt of a return made under section 18, proceed to make in a summary manner, a provisional assessment of the accounts and documents, if any, accompanying it, after giving due effect to (i) the allowance referred to in paragraph (2) of the proviso to clause (c) of section 5, and (ii) any loss carried forward under section 15.

(2) A partner of a firm may be provisionally assessed under sub-section (1) in respect of his share in the firm's income, profits and gains, if its return has been received although the return of the partner himself may not have been received.

(3) There shall be no right of appeal against a provisional assessment made under sub-section (1).

(4) After a regular assessment has been made under section 19, any amount paid or deemed to have been paid towards a provisional assessment made under sub-section (1), shall be deemed to have been paid towards the regular assessment, and where the amount paid or deemed to have been paid towards the provisional assessment, exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee.

(5) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination on the merits, of any issue which may arise in the course of the regular assessment under section 19.

21. *Cancellation of assessment in certain cases.*—Where an assessee within one month from the service of a notice of demand issued as hereinafter provided satisfies the Agricultural Income-Tax Officer that he was prevented by sufficient cause from making the return required by section 18 or that he did not receive the notice issued under sub-section (2) or sub-section (4) of that section or sub-section (2) of section 19 or that he had not a reasonable opportunity to comply, or prevented by sufficient cause from complying with the terms of any such notice, the Agricultural Income-Tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 19.

22. *Penalty for concealment of income.*—(1) If the Agricultural Income-Tax Officer or the Deputy Commissioner or the Commissioner is satisfied that any person :—

(*a*) has without reasonable cause failed to furnish the return of his total agricultural income which he was required to furnish under sub-section (1) or sub-section (2) of section 18 ; or

(*b*) has without reasonable cause failed to furnish such return within the time allowed and in the manner required by sub-section (1) of section 18 or by a notice served under sub-section (2) of that section ; or

(*c*) has, without reasonable cause, failed to comply with a notice issued under sub-section (4) of section 18 or under sub-section (2) of section 19 ; or

(*d*) has concealed the particulars of his agricultural income or has deliberately furnished inaccurate particulars of such income ;

he may direct that such person shall pay by way of penalty, in addition to the amount of agricultural income-tax if any, payble by him, a sum not exceeding that amount :

Provided that—

(*a*) no penalty shall be imposed under this sub-section upon a person who has failed to furnish a return under sub-section (1) of section 18 if he proves that he has no income liable to tax ;

(*b*) where a person has failed to comply with a notice under sub-section (2) or sub-section (4) of section 18 or under sub-section (2) of section 19 and proves that he has no income liable to tax, the penalty imposable under this sub-section shall not exceed ten rupees;

(*c*) no penalty shall be imposed under this sub-section upon any person assessable as the agent of any person not resident in the State of Mysore for failure to furnish the return required under section 18 unless a notice under ub-section (2) thereof or under section 35 has been served on him.

(2) No order under sub-section (1) shall be made unless the assessee has been heard or has been given a reasonable opportunity of being heard.

(3) No prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under sub-section (1).

(4) If the Commissioner or Deputy Commissioner makes an order under sub-section (1) he shall forthwith send a copy of the same to the Agricultural Income-Tax Officer concerned.

23. *Power to assess individual memebrs of certain association.*—(1) Where the Agricultural Income-Tax Officer is satisfied that any association of individuals other than a Hindu undivided family, and Aliyasanthana family or branch, Marumakkattayam tarwad or tavazhi or a company is under the control of one member thereof, and that such association has been formed or is being used for the purpose of evading or reducing the liability to agricultural income-tax of any member thereof, he may, with the previous approval of the Deputy Commissioner of Agricultural Income-Tax, pass an order that the sum payable as agricultural income-tax, by the association shall not be determined, and thereupon the share of each member in the agricultural income of the association shall be included in his total agricultural income for the purpose of his assessment thereon.

Explanation.—(1) A member of an association who owns the whole or the major portion of the capital of the association shall not by reason only of that fact be deemed to control the firm or association.

(2) The Deputy Commissioner of Agricultural Income-Tax shall not give his approval to any order proposed to be passed by the Agricultural Income-Tax Officer, under this section until he has given the firm or association concerned an opportunity of being heard.

(3) Where any member of an association of individuals makes default in the payment of tax on his share of income which has been included in his total agricultural income under the provisions of sub-section (1), such tax may be recovered from the association.

(4) Where agricultural income-tax is recoverable from an association under this section, a notice of demand shall be served upon it in the prescribed form showing the sum so payable, and such association shall be deemed to be the assessee in respect of such sum, for the purposes of Chapter V.

24. *Tax of deceased person payable by representative.*—(1) Where a person dies, his executor, administrator or other legal representative shall be liable to pay out of the estate of the deceased person, to the extent to which the estate is capable of meeting the charge of the agricultural income-tax assessed as payable by such person or any agricultural income-tax which would have been payable by him under this Act if he had not died.

(2) Where a person dies before the 1st June in any year or before he is served with a notice under sub-section (2) of section 18 or under section 36, as the case may be, his executor, administrator or other legal representative shall, on the serving of the notice under sub-section (2) of section 18 or under section 36, as the case may be, comply therewith, and the Agricultural Income-Tax Officer may proceed to assess the total agricultural income of the deceased person as if such executor, administrator or other legal representative were the assessee.

(3) Where a person dies without having furnished a return which he has been required to furnish under section 18, or having furnished a return which the Agricutural Income-Tax Officer has reason to believe to be incorrect or incomplete such Officer may make an assessment of the total agricultural income of such person and determine the agricultural income-tax payable by him on the basis of such assessment and for this purpose may, by the issue of the appropriate notice which would have had to be served upon the deceased person had he survived, require from the executor, administrator or other legal representative of the deceased person any accounts, documents, or other evidence which he might under section 18 or section 19 have required from the deceased person.

„ 25. *Effect of transfer of land.*—Where a person in receipt of agricultural income for any previous year from any land in the State is found to have transferred his interest in such land to any other person the transferor and the transferee, shall, each, assessed in respect of

his actual share, if any, of the agricultural income for the previous year :

Provided that where the transfered cannot be found, the assessment of such agricultural income of the previous year in which the transfer took place up to the date of the transfer and for the year preceeding that year shall be made on the transferee in the like manner and to the like extent as it would have been made on the transferor or where the tax in respect of the assessment made for any or all of such years assessed on the transferor cannot be recovered from him, it shall be payable by and recoverable from the transferee, and the transferee shall be entitled to recover from the transferor the amount so paid by him.

26. *Assessment in case of discontinued company, firm or association.*—(1) Where agricultural income is received by a company, firm or association of persons and the business through which such income is received is discontinued in any year, an assessment may be made in that year on the basis of the agricultural income received during the period between the end of the previous year and the date of such discontinuance, in addition to the assessment if any made on the basis of the agricultural income received in the previous year.

(2) Any person discontinuing any such business shall give to the Agricultural Income-Tax Officer notice of such discontinuance within thirty days thereof and where any person fails to give the notice required by this sub-section, such officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of agricultural income-tax subsequently assessed on him in respect of any agricultural income of the company, firm or association of persons up to the date of the discontinuance of the business.

(3) Where an assessment is to be made under sub-section (1) the Agricultural Income-Tax Officer may serve on the person whose agricultural income is to be assessed or in the case of a firm on any person who was a member of such firm at the time of its discontinuance or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 18 and the provisions of this Act shall, so far as may be, apply accordingly as if the notice where a notice issued under that sub-section.

27. *Liability in case of discontinued firm or association.*— Where agricultural income is received by a firm or association of persons and the business of such firm or association is discontinued or such firm or association is dissolved, every person who was at the time of such discontinuanre or dissolution a partner of such firm or

member of such association shall be jointly and severally liable to assessment on such agricultural income and for the amount of agricultural income-tax payable under this Act by such firm or association and all the provisions of this Act shall, so far as may be, apply to such assessment.

28. *Change in constitution of firm and succession to business.*—(1) Where at the time of making an assessment under section 19, it is found that a change has occurred in the constitution of a firm or that a firm has been newly constituted, the assessment shall be made on the firm as constituted at the time of making the assessment.

If the agricultural income-tax cannot be recovered from the firm as so constituted, such tax shall be recoverable from the persons who were members of the firm during the previous year.

(2) Where a person carrying on any business in the course of which agricultural income is received has been succeeded in such capacity by another person, such person and such other person shall each be assessed in respect of his actual share of the agricultural income of the previous year:

Provided that, when the person succeeded in the business cannot be found, the assessment of the agricultural income of the year in which the succession took place up to the date of succession, and for the year preceding that year shall be made on the person succeeding him in the like manner and to the same amount as it would have been made on the person succeeded or when the tax in respect of the assessment made for either of such years assessed on the person succeeded cannot be recovered from him, it shall be payable by and recoverable from the person succeeding, and such person shall be entitled to recover from the person succeeded the amount of any tax so paid.

29. *Procedure for registration of firms.*—(1) Application may be made to the Agricultural Income-Tax Officer on behalf of any firm, constituted under an instrument of partnership specifying the individual shares of the partners for registration for the purposes of this Act.

(2) The application shall be made by such person or persons, and at such times and shall contain such particulars and shall be in such form, and be verified in such manner, as may be prescribed, and it shall be dealt with by the Agricultural Income-Tax Officer in such manner as may be prescribed.

30. *Assessment after partition of a Hindu undivided family.*—(1) Where at the time of making an assessment under section 19, it is claimed by or on behalf of any member of a Hindu Undivided

Family, or branch, an aliyasanthana family or a Marumakkattayam tarwad or tavzhi hitherto assessed as undivided that a partition or maintenance division has taken place among the members or groups of members of such family, branch, tarwad or tavazhi, the Agricultural Income-Tax Officer shall make such inquiry thereinto as he may think fit, and if he is satisfied that there has been a partition or maintenance division of the property by metes and bounds among the various members of groups of members and separate enjoyment by them he shall record an order to that effect :—

Provided that no such order shall be recorded until notice of the inquiry has been served on all the adult members of the family, branch, tarwad or tavazhi entitled to the property as far as may be practicable or in such other manner as may be prescribed.

(2) When such an order has been passed, the Agricultural Income-Tax Officer shall make an assessment of the total agricultural income received by or on behalf of the family, branch, tarwad or tavazhi as such, as if no partition or maintenance division had taken place and each member or group of members shall, in addition to any agriculture income-tax for which he or it may be separately liable, and notwithstanding anything contained in clause (*a*) of section 12, be liable for a share of tax on the income so assessed according to the portion of the family, branch, tarwad or tavazhi property allotted to him or it and the Agricultural Income-Tax Officer shall make assessments accordingly on the various members and groups of members in accordance with the provisions of section 19 :

Provided that all the members and groups of members whose family branch tarward or tavahzi property has been partitioned or divided for maintenance shall be liable jointly and severally for the tax on the total agricultural income received by or on behalf of the family, branch, tarwad or tavazhi as such up to the date of the partition.

(3) Where such an order has not been passed in respect of a Hindu family, an Aliyasanthana family or branch or a Marumakkattayam, tarwad or tavazhi hitherto assessed as undivided, such family branch, tarwad or tavazhi shall be deemed for the purpose of this Act to continue to be an undivided family, branch, tarwad or tavazhi.

31. *Notice of demand.*—Where any tax or penalty is due in consequence of any order passed under or in pursuance of this Act, the Agricultural Income-Tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum of payable.

32. *Appeal Against assessment.*—(1) Any assessee objecting to the amount of income assessed or tax determined or loss computed under section 19 or the amount of tax determined under section 19 or denying his liability to be assessed under this Act, or objecting to any order under any of the provisions of [1][sections (22, 26, 29, 30 and 42) made by the Agricultural Income-Tax Officer may appeal to the Deputy Commissioner against the assessment or order :

Provided that no appeal shall lie in respect of an assessment made under sub-section (4) of section 19.

(2) The appeal shall be presented within a period of sixty day from the date of service of the order but the appellate authority may admit an appeal presented after the expiration of the said period, if the authority is satisfied that the appellant had sufficient cause for not presenting it within the said period.

(3) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(4) The appellate authority shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing and make or cause to be made such further inquiry as it thinks fit.

(5) In disposing of an appeal, the appellate authority may—

(*a*) in the case of an order of assessment :—

(i) confirm, reduce, enhance or annul the assessment ;

(ii) set aside the assessment and direct the Agricultural Income-Tax Officer to make a fresh assessment after such further inquiry as may be directed ; or

(*b*) in the case of any other order, confirm, cancel or vary such order :

Provided that no enhancement of an assessment or penalty shall be made under this section unless the appellant has had a reasonable opportunity.

[2][(6) Notwithstanding that an appeal has been preferred under sub-section (1), tax shall be paid in accordance with the assessment made in the case :

Provided that the appellate authority may in its discretion give such directions as it thinks fit, in regard to the payment of tax, if the appellant furnishes sufficient security to its satisfaction in such manner as may be prescribed.]

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1 Substituted by Act 29 of 1963.

2. Added by Act 29 of 1963.

33. *Appeal against order of refusal to refund.*—The provisions of the foregoing section shall, so far as may be, apply to any order of refusal of any refund admissible under this Act or the rules made thereunder.

[1][34. *Appeal to the Appellate Tribunal.*—(1) Any assessee objecting to an order of the Agricultural Income-Tax Officer under section 23, or an order passed by the Deputy Commissioner under section 22 or under section 32, may appeal to the Appellate Tribunal within sixty days from the date on which the notice of such order was communicated to the assessee.

(2) The Appellate Tribunal may admit an appeal preferred after the period of sixty days referred to in sub-section (1), if it is satisfied that the assessee had sufficient cause for not preferring the appeal within that period.

(3) The appeal shall be in the prescribed form, shall be verified in the prescribed manner, and shall be accompanied by a fee equal to two per cent of the amount of assessment objected to, provided that the sum payable shall in no case be less than five rupees or more than two hundred rupees.

(4) The Appellate Tribunal shall, after giving both parties to the appeal a reasonable opportunity of being heard, pass such orders thereon as it thinks fit :

Provided that, if the appeal involves a question of law on which the Appellate Tribunal has previously given its decision in another appeal and either a revision petition in the High Court against such decision or an appeal in the Supreme Court against the order of the High Court thereon is pending, the Appellate Tribunal may defer the hearing of the appeal before it till such revision petition in the High Court or the appeal in the Supreme Court is disposed of.

(5) Notwithstanding that an appeal has been preferred under sub-section (1), tax shall be paid in accordance with the assessment made in the case :

Provided that the Appellate Tribunal may, in its discretion, give such directions as it thinks fit, in regard to the payment of tax, if the appellant furnishes sufficient security to its satisfaction in such form and manner as may be prescribed :

Provided further that if as a result of the appeal any change becomes necessary in such assessment, the Appellate Tribunal may authorise the Agricultural Income-Tax Officer to amend the assessment, and the Agricultural Income-Tax Officer shall amend the

1 Substituted by Mysore Act 29 of 1963.

assessment accordingly, and thereupon, the amount overpaid by the assessee shall be refunded to him without interest, or the additional amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(6) (*a*) The Appellate Tribunal may, on the application either of the assessee or of the Deputy Commissioner review any order passed by it under sub-section (4) on the basis of facts which were not before it when it passed the order:

Provided that no such application shall be preferred more than once in respect of the same order.

(*b*) The application for review shall be preferred in the prescribed manner within six months from the date on which the order to which the application relates was communicated to the applicant; and where the application is preferred by the assessee, it shall be accompanied by a fee equal to that which had been paid in respect of the appeal:

Provided that if the application for review is preferred within ninety days from the date on which the order to which the application relates is communicated to the applicant, the application shall be accompanied by half the fee which had been paid in respect of the appeal.

(7) The Appellate Tribual may, at any time within four years from the date of the order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under this section, and shall make such amendment if the mistake is brought to its notice by the assessee or the Agricultural Income-Tax Officer:

Provided that an amendment which has the effect of enhancing the assessment or reducing the refund or otherwise increasing the liability of the assessee, shall not be made under this sub-section unless the Appellate Tribunal has given notice to the assessee of its intention to do so and has allowed the assessee a reasonable opportunity of being heard.

(8) Except as provided in the rules made under this Act, the Appellate Tribunal shall not have power to award costs to either of the parties to the appeal or review.

(9) Every order passed by the Appellate Tribunal under sub-section (4), sub-section (6) or sub-section (7) shall be communicated to the assessee, the Deputy Commissioner and the Commissioner.

(10) Every order passed by the Appellate Tribunal under sub-section (4) shall, subject to the provisions of sub-sections (6) and (7), and section 55, be final and every order passed by it under sub-section (6) shall subject to the provisions of section 55, be final].

[1][35. *Revision by Commissioner of orders prejudicial to revenue.*—(1) The Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by any authority subordinate to him is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such inquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, of cancelling the assessment and directing a fresh assessment.

(2) No order shall be made under sub-section (1)—

(*a*) to revise an order of re-assessment made under section 36, or

(*b*) after the expiry of four years from the date of the order sought to be revised.

Explanation.—In computing the period of limitation for the purpose of sub-section (2), any period during which any proceeding under this section is stayed by an order or injunction of any Court shall be excluded.

(3) Any order passed by the Commissioner under this section shall, subject to revision by the High Court under Section 55, be final.]

36. *Income escaping assessment.*—If for any reason any agricultural income chargeable to tax under this Act has escaped assessment in any financial year or has been assessed at too low a rate, the Agricultural Income-Tax Officer, may, in cases falling under sub-section (3) of section 40, at any time within five years and in any other case at any time within three years, of the end of that year serve on the person liable to pay the tax or in the case of a company on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 18 and may proceed to assess or re-assess such income and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were issued under that sub-section.

Provided that the tax shall be charged at the rate at which it would have been charged if such income had not escaped assessment or full assessment as the case may be :

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1 Substited by Act 29 of 1963.

[1][Provided further that in computing the period of limitation for assessment or re-assessment under this section, the time during which the assessment has been deferred on account of any stay order granted by any court or other authority in any case or by reason of the fact that an appeal or other proceeding is pending before the High Court or the Supreme Court, shall be excluded:

Provided also that nothing contained in this section limiting the time within which any action may be taken or any order, assessment or re-assessment may be made, shall apply to an assessment or assessment made on the assessee or any person in consequence of, or to give effect to, any finding direction or order made under section 32, 33, [2][34], 35 or 55 or any judgment, or order made by the Supreme Court, the High Court or any other Court].

[3][37. *Rectification of mistake.*—(1) With a view to rectifying any mistake apparent from the record,—

(*a*) the Agricultural Income-Tax Officer may amend any order of assessment or of refund or any other order passed by him;

(*b*) the Deputy Commissioner may amend any order passed by him in appeal under section 32;

(*c*) the Commissioner may amend any order passed by him in revision under section 35.

(2) Subject to the provisions of this section, the authority concerned—

(*a*) may make an amendment under sub-section (1) of its own motion, and

(*b*) shall make such amendment for rectifying any such mistake which has been brought to its notice by the assessee, and where the authority concerned is the Deputy Commissioner, by the Agricultural Income-Tax Officer also.

(3) An amendment, which has the effect of enhancing an assessment or reducing a refund or otherwise increasing the liability of the assessee, shall not be made under this section unless the authority concerned has given notice to the assessee of its intention so to do and has allowed the assessee a reasonable opportunity of being heard.

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1 Inserted by Act 25 of 1962.
2 Inserted by Act 29 of 1963.
3. Substituted by Act 29 of 1963

(4) Where an amendment is made under this section an order shall be passed in writing by the Agricultural Income-Tax authority concerned.

(5) Subject to the provisions of section 45A, where any such amendment has the effect of reducing the assessment, the Agricultural Income-Tax Officer shall make any refund which may be due to such assessee.

(6) Where any such amendment has the effect of enhancing the assessment or reducing the refund already made, the Agricultural Income-Tax Officer shall serve on the assessee a notice of demand in the prescribed from specifying the sum payable, and such notice of demand shall be deemed to be issued under section 31 and the provisions of this Act shall apply accordingly.

(7) No amendment under this section shall be made after the expiry of four years from the date of the order sought to be amended.]

38. *Power to take evidence on oath, etc.*—The Commissioner, the Deputy Commissioner and the Agricultural Income-Tax Officer shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (Central Act V 1908), when trying a suit, in respect of the following matters, namely:—

(*a*) enforcing the attendance of any person and examining him on oath or affirmation;

(*b*) compelling the production of documents; and

(*c*) issuing commissions for the examination of witnesses; and any proceedings before the Commissioner, Deputy Commissioner or Agricultural Income-Tax Officer shall be deemed to be a "Judicial proceeding" within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code (Central Act XLV of 1860).

39. *Power to call for information.*—The Agricultural Income-Tax Officer or the Deputy Commissioner may for the purposes of this Act—

(*i*) require any firm to furnish a return of the names of all the members of the firm, their addresses and such other particulars as may be required for the purposes of assessment;

(*ii*) require any person whom he has reason to believe to be a trustee, guardian or agent, to furnish him with a return of the

names of the persons for or of whom he is trustee, guardian or agent and of their addresses.

40. *Assessee not to recover rent in excess of that mentioned in rent-roll, etc.*—(1) If for the purpose of calculating or verifying the agricultural income specified in a return under section 18, the assessee produces before any Agricultural Income-Tax Authority any rent-roll or other document showing the amount of rent due to him, he shall not be entitled to recover by suit or otherwise rent in respect of such tenure or holding included in his return at a rate higher than that mentioned in such rent-roll or document in respect of such tenure or holding unless the rent thereof has, since the date of the return, been lawfully enhanced.

(2) Any person who has produced a rent-roll or other document referred to in sub-section (1) may, within one year of producing such rent-roll or document, apply to the Agricultural Income-Tax Officer to make any correction therein and such officer may, if he is satisfied that there has been a *bona fide* mistake, pass an order correcting such rent-roll or document.

(3) Where the Agricultural Income-Tax Officer passes an order under sub-section (2) he may assess, under section 36 any income escaping assessment by reason of the original incorrectness of the entry corrected.

CHAPTER V

Recovery of Tax and Penalties

41. *Tax when payable.*—(1) Any amount specified as payable in a notice of demand under section 31 or an order under section 32, section 34 or section 35, shall be paid within the time, at the place and to the person mentioned in a notice or order or if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order and any assessee failing so to pay shall be deemed to be in default:

Provided that, when an assessee has presented an appeal under section 32, the Agricultural Income-Tax Officer may, in his discretion treat the assessee as not being in default as long as such appeal is undisposed of and if in any such case the Agricultural Income-Tax Officer considers that the assessee should be held to be in default, he shall refer the matter to the authority to whom the appeal was presented for orders and shall treat the assessee as not being in default until the said authority passes orders to the contrary.

(2) If an assessee makes an application within the time mentioned in the notice of demand in section 31, for being allowed to pay the tax due, the Agricultural Income-Tax Officer may in his discretion, by order in writing, allow the assessee to pay the tax due, in instalments not exceeding four in number at such intervals as the said Officer may fix in his discretion or extend the time for the payment of the entire tax due for such reasonable period as he may fix if the assessee undertakes in writing to pay interest at 6¼ per cent or as may be prescribed :

Provided that if as a result of an application made by the assessee, the Agricultural Income-Tax Officer allows the assessee to pay the tax due in instalments, the assessee shall be deemed to have waived all his rights of appeal under this Act :

Provided further that if, on being allowed to pay the tax due by instalments, the assessee defaults in the payment of any one instalment, he shall be deemed to be a defaulter in respect of the total remaining amount of tax due.

42. *Mode and time of recovery.*—(1) When an assessee is in default in making a payment of agricultural income-tax the Agricultural Income-Tax Officer may, in his discretion, direct that, in addition to the amount of the arrears, a sum not exceeding one-eighth of that amount shall be recovered from the assessee by way of penalty.

(2) For the purposes of sub-section (1) the Agricultural Income-Tax Officer may direct the recovery of any sum less than the amount of the arrears and may enhance the sum so directed to be recovered from time to time in the case of a continuing default, so however that the total sum so directed to be recovered shall not exceed the amount of the arrears payable.

(3) The Agricultural Income-Tax Officer may forward to the Deputy Commissioner or Collector of the Revenue District a certificate under his signature specifying the amount of arrears due from an assessee and the said Deputy Commissioner, or Collector, on receipt of such certificate, shall proceed to recover from such assessee the amount specified as if it were an arrear of land revenue :

Provided that, without prejudice to any other powers of the Deputy Commissioner or Collector of the Revenue District in this behalf, he shall, for the purpose of recovering the said amount have the powers which under the Code of Civil Procedure, 1908 (Central Act V of 1908), a civil court has for the purpose of the recovery of an amount due under a decree.

43. *Right, title and interest in property sold for arrears of tax in certain cases.*—(1) Where any property of a Hindu undivided family, an Aliyasanthana family or branch, or a Marmakkattayam tarwad, tavazhi, is sold for the realisation of arrears of agricultural income-tax, the right, title and interest of all the members of such family, branch, tarwad or tavazhi in the property shall pass to the purchaser.

(2) Where any person has been assessed to agricultural income-tax on the agricultural income derived from a land held by him wholly or partly for the benefit of other persons and the tax payable by him is in arrears, the land so held by him may be attached and sold for the realisation of such arrears and on such sale, the right, title and interest of such person in the said land shall pass to the purchaser.

44. *Recovery of penalties.*—Any sum imposed by way of penalty under the provisions of section 22, section 26 or section 42 shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax.

CHAPTER VI

REFUNDS

45. *Refunds.*—(1) If any person satisfies the Agricultural Income-Tax Officer that the amount of agricultural income-tax paid by him or on his behalf or treated as paid on his behalf for any year exceeds the amount with which such person is properly chargeable under this Act, for that year, he shall be entitled to a refund of any such excess.

(2) The Deputy Commissioner in the exercise of his appellate powers, the Commissioner in the exercise of his [1][xx] revisional powers, if satisfied to the like effect, shall cause a refund to be made by the Agricultural Income-Tax Officer of any amount found to have been wrongly paid or paid in excess.

(3) Where agricultural income of one person is included under any provision of this Act in the total agricultural income of any other person, such other person only shall be entitled to a refund under this section in respect of such income.

(4) Nothing in this section shall operate to validate any objection or appeal which is otherwise invalid or to authorise the

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1 Certain words omitted by Act 29 of 1963.

revision of any assessment or other matter which has become final and conclusive or the review by any officer of a decision of his own which is subject to appeal or revision, or where any relief is specifically provided elsewhere in this Act, to entitle any person to any relief other than or greater than that relief.

[1][45-A. (1) *Power to withhold refund in certain cases.*—Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending, and the Agricultural Income-Tax Officer is of the opinion that the grant of the refund is likely to adversely affect the revenue, the Agricultural Income-Tax Officer may, with the previous approval of the Deputy Commissioner, withhold the refund till such time as the Deputy Commissioner may determine.

(2) Where a refund is withheld under the provisions of sub-section (1), the State Government shall pay to the assessee simple interest at four per cent per annum on the amount of refund ultimately determined to be due as a result of the appeal or further proceedings for the period commencing after the expiry of six months from the date of the order referred to in sub-section (1) to the date the refund is granted.]

46. *Refunds admissible under the Rules.*—Refunds shall also be admissible under this Act in such cases, and to such extent as may be prescribed.

47. *Power to set off amount of refund against tax remaining payable.*—Where under any of the provisions of this Act, refund is found to be due to any person, the Agricultural Income-Tax Officer, the Deputy Commissioner or the Commissioner, as the case may be, may, in lieu of payment of the refund, set off the amount to be refunded, or any part of that amount against the agricultural income-tax, if any, remaining payable by the person to whom the refund is due.

48. *Power of representative of deceased person or persons disabled to make claim on his behalf.*—Where through death, incapacity, bankruptcy, liquidation or other cause a person who would but for such cause have been entitled to a refund under any of the provisions of this Act, or to make a claim under section 45, is unable to receive such refund or to make such claim, his executor,

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1 Inserted by Act 29 of 1963.

administrator or other legal representative or the trustee or receiver, as the case may be, shall be entitled to receive such refund or to make such claim for the benefit of such person or his estate.

49. *Limitation of claims for refund.*—No claim to any refund of agricultural income-tax under this Chapter shall be allowed, unless it is made within three years from the last day of the financial year commencing next after the expiry of the previous year in which the agricultural income was received or one year from the date on which the assessment is completed, whichever is later.

CHAPTER VII

Offences and Penalties

50. *False statements in declaration.*—If any person makes a statement in a verification mentioned in section 18 or sub-section (3) of section 32 [1][or sub-section (3) of section 34] or in any application under section 67, which is false and which he either knows or believes to be false or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code, 1860 (Central Act XLV of 1860).

51. *Failure to furnish return or to supply information.*—If any person fails without reasonable cause or excuse—

(*a*) to furnish in due time any of the returns specified in sub-section (1) or sub-section (2) of section 18 or in section 39 ; or

(*b*) to furnish a certificate required by section 16 ; or

(*c*) to grant inspection or allow copies to be taken in accordance with the provision of section 62 ; or

(*d*) to produce or cause to be produced on or before the date mentioned in any notice under sub-section (4) of section 18, such accounts or documents as are referred to in the notice,

he shall be punishable with fine which may extend to five rupees for every day during which the default continues.

52. *Prosecution to be at the instance of the Deputy Commissioner.*—(1) A person shall not be proceeded against for an offence under section 50 or section 51 except at the instance of the Deputy Commissioner.

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1 Substituted by Act 29 of 1963.

(2) Before instituting proceedings against any person under sub-section (1), the Deputy Commissioner shall call upon such person to show cause why proceedings should not be instituted against him.

(3) The Deputy Commissioner may either before or after the institution of proceedings compound any such offences.

53. *Disclosure of information by public servant.*—(1) All particulars contained in any statement made, return furnished, or account or documents produced under the provisions of this Act or in any evidence given, or affidavit or deposition made in the course of any proceedings under this Act other than proceedings under this Chapter, or in any record of an assessment proceedings or any proceeding relating to the recovery of a demand prepared for the purposes of this Act, shall be treated as confidential and notwithstanding anything contained in any law, no court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such reurn, accounts, documents or record or any part of such record or to give evidence before it in respect thereof.

(2) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months and shall also be liable to fine.

(3) Nothing contained in this section shall apply to the disclosure—

(*a*) of any such particulars for the purposes of prosecution under the Indian Penal Code (Central Act XLV of 1860) in respect of any such statement, return, accounts, documents, evidence, affidavit or depositions or for the purposes of a prosecution under this Act, or

(*b*) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act; or

(*c*) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand; or

(*d*) of any such particulars to a Civil Court in any suit to which the State Government is a party which relates to any matter arising out of any proceeding under this Act, or

(*e*) of any such particulars to any officer appointed to audit agricultural income-tax receipts or refunds; or

(*f*) of any such particulars relevant to any inquiry into the conduct of an official of the Agricultural Income Tax Department, to any officer or authority appointed or authorised to hold such inquiry ; or

(*g*) of any such particulars relevant to any inquiry into a charge of misconduct in connection with proceedings under this Act against a legal practitioner or registered accountant ; or

(*h*) of any such particulars occasioned by the lawful exercise by a public servant of his powers under any law relating to stamps, to impound an insufficiently stamped document ; or

(*i*) of such facts to an officer of the Central Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it ; or

(*j*) of such facts to any authority exercising powers under any Act of the State Legislature imposing any tax or duty as may be necessary for enabling it duly to exercise such powers ; or

(*k*) of such particulars, to the appropriate authority as may be necessary to establish whether a person has or has not been assessed to agricultural income-tax in any particular year or years where under the provisions of any law for the time being in force such fact is required to be established ; or

(*l*) of particulars in any rent-roll or other document produced by any assessee as the basis of his agricultural income or any part of such income ; or

(*m*) of such facts as may be necessary to enable an intending purchaser or other transferee of property to ascertain the nature and extent of the liability of any such property for agricultural income-tax ; provided that no such disclosure shall be made except with the consent of the assessee.

[1][(*n*) of so much of such particulars, to an Agricultural Income-Tax authority, as may be necessary to make assessment to the best of his judgment, of agricultural income-tax payable by an assessee ;

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1 Substituted by Act 29 of 1963.

(*o*) of any such particulars relevant to any inquiry into a charge of misconduct in connection with agricultural income-tax proceedings against a legal practitioner or accountant, to the authority empowered to take disciplinary action against the members of the profession to which he belongs ;

(*p*) of such information as may be required by any officer or department of the State Government for the purpose of investigation into the conduct and affairs of any public servant for purposes of an inquiry under clause (*f*) or for prosecution before a court of law ;

(*q*) of such information as may be required to a court of law in connection with any prosecution of a public servant arising out of any investigation referred to in clause (*p*)].

(4) Nothing in this section shall apply to the production by a public servant before a court of any document, declaration or affidavit filed or the record of any statement of deposition made, in proceedings under section 30 or to the giving of evidence by a public servant in respect thereof.

[1][(4-A) Nothing in this section shall be construed as prohibiting the voluntary disclosure of any particulars referred to in sub-section (1) by the person by whom the statement was made, the return furnished, the accounts or documents produced, the evidence given or the affidavit or deposition made, as the case may be.]

(5) No prosecution shall be instituted under this section—

(*a*) against a person who is not removable from his office save by or with the sanction of the Government or some higher authority, except with the previous sanction of the Government, or

(*b*) against any other person, except with the previous sanction of the authority competent to remove him from his office.

[2][CHAPTER VII-A

SUPER-TAX

53-A. *Charge of super-tax.*—In addition to the agricultural income-tax charged for any year, there shall be charged, levied and

1 Inserted by Act 29 of 1963.

2. Inserted by Act 31 of 1962.

paid for that year in respect of the total agricultural income of the previous year of any person an additional tax, referred to as super-tax, at the rate or rates laid down in Part I-A of the Schedule :

Provided that when the profits and gains of an unregistered firm or other association of persons not being a company have been assessed to super-tax, such tax shall not again be payable by a partner of the firm or a memeber of the association, as the case may be, in respect of the amount of such profits and gains which is proportionate to his share.

53-B. *Total agricultural income for purposes of super-tax.*— The total agricultural income of any person for the purposes of the levy of super-tax shall be the total agricultural income determined and assessed to agricultural income-tax under section 3, and where an assessment of total agricultural income has become final and conclusive for the purposes of the agricultural income-tax for any year the assessment shall also be final and conclusive for the purposes of super-tax for the same year.

53-C. *Application of Act to super-tax.*—All the provisions of this Act relating to the charge, assessment, collection and recovery of agricultural income-tax, except those contained in sub-section (1) of section 3, shall apply so far as may be, to the charge, assessment, collection and recovery of super-tax.]

CHAPTER VIII

MISCELLANEOUS

54. *Place of assessment.*—(1) Subject to any orders passed under sub-section (2), the agricultural income of a person shall be assessed by the Agricultural Income-Tax Officer of the area in which is situated the land from which the greater part of the agricultural income is derived :

Provided that here an assessee has made a return under sub-section (1) of section 18 to the Agricultural Income-Tax Officer having jurisdiction over the assessee's place of residence or the place where any of his lands is situated or where his accounts are maintained he shall be deemed to have elected such place as his place of assessment and it shall be accepted by the officer concerned unless for reasons to be recorded in writing he passes an order that the assessment shall be made in any other place.

(2) (*a*) An assessee who has not made a return under section 18 may, before the expiry of the time allowed for the submission of the return, apply to the Agricultural Income-Tax Officer of the area in which is situated the land from which the greater part of the agricultural income of the assessee is derived, to be assessed at his usual place of residence or at the place where the accounts relating to his agricultural income are kept, if either of such places is situated in the State and the Agricultural Income-Tax Officer shall refer the matter to the Deputy Commissioner whose decision thereon shall be final.

(*b*) Where and order is passed under clause (*a*), the assessee shall not be entitled to make any further application to change his place of assessment :

Provided that the Agricultural Income-Tax Officer may allow the assessee to be assessed at any other place upon such conditions as he thinks fit.

(3) Notwithstanding anything contained in this section, every Agricultural Income-Tax Officer shall have all the powers conferred by or under this Act on an Agricultural Income-Tax Officer in respect of any agricultural income derived from land situated within the area for which he is appointed.

[1][55. *Revision by High Court.*—(1) Within sixty days from the date on which he is served with the order, the assessee or the Deputy Commissioner, in the case of an order under sub-section (4) or sub-section (6) of section 34, and the assessee, in the case of an order under section 35, may prefer a petition to the High Court against the order on the ground that the Appellate Tribunal or the Commissioner, as the case may be, has either failed to decide or decided erroneously any question of law :

Provided that the High Court may admit an application preferred after the period of sixty days aforesaid if it is satisfied that the petitioner had sufficient cause for not preferring the petition within that period.

(2) The petition shall be in the prescribed form, shall be verified in the prescribed manner, and shall, when it is preferred by the assessee, be accompanied by a fee of one hundred rupees.

(3) If the High Court, on perusing the petition considers that there is no sufficient ground for interfering, it may dismiss the petition summarily :

Provided that no petition shall be dismissed unless the petitioner has had a reasonable opportunity of being heard in support thereof.

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1 Substituted by Act 29 of 1963.

(4) (*a*) If the High Court does not dismiss the petition summarily it shall, after giving both parties to the petition a reasonable opportunity of being heard, determine the question or questions of law raised and either reverse, affirm, or amend the order against which the petition was preferred or remit the matter to the Appellate Tribunal or the Commissioner, as the case may be, with the opinion of the High Court on the question or questions of law raised or pass such other order in relation to the matter as the High Court thinks fit.

(*b*) Where the High Court remits the matter to the Appellate Tribunal or the Commissioner as the case may be with its opinion on the question or questions of law raised, the Appellate Tribunal or the Commissioner as the case may be, shall amend the order passed by it or him in conformity with such opinion.

(5) Before passing an order under sub-section (4), the High Court may, if it considers necessary so to do remit the petition to the Appellate Trbunal or the Commissioner, as the case may be, and direct it or him to return the petition with its or his finding on any specific question or issue.

(6) Notwithstanding that a petition has been preferred under sub-section (1), the tax shall be paid in accordance with the assessment made in the case :

Provided that, if as a result of the petition any change becomes necessary in such assessment, the High Court may authorise the Agricultural Income-Tax Officer to amend the assessment, and on such amendment being made, the amount overpaid by the assessee shall be refunded to him without interest, or the additional amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.

(7) (*a*) The High Court may on the application either of the assessee or of the Deputy Commissioner, review any order passed by it under sub-section (4) on the basis of facts which were not before it when it passed the order.

(*b*) The application for review shall be preferred in the prescribed manner within ninety days from the date of communication of the order sought to be reviewed ; and where the application is preferred by the assessee, it shall be accompanied by a fee of one hundred rupees.

(8) In respect of every petition preferred under sub-section (1) or sub-section (7), the costs shall be in the discretion of the High Court.]

[1][56. *Petitions and applications to be heard by a Bench of the High Court.*—Every petition or application preferred to the High Court under section 55 shall be heard by a Bench of not less than two judges, and in respect of such petition or application, the provisions of section 98 of the Code of Civil Procedure, 1908 (Central Act V of 1908) shall so far as may be, apply.]

57. *Appearance by authorised representative.*—(1) Any assessee who is entitled or required to attend before any Agricultural Income-Tax Authority in connection with any proceeding under this Act otherwise than when required under section 38 to attend personally for examination on oath or affirmation, may attend either in person or by any person duly authorised by him in writing in this behalf being a relative or a person wholly or principally employed in the service of the assessee or a lawyer or an accountant or an Income-tax practitioner and not being disqualified on the ground of misconduct by or under any law or under any order of Government.

(2) No person who has been dismissed from Government service shall be qualified to represent an assessee under sub-section (1); and if any lawyer or accountant or an Income-tax practitioner is found guilty of misconduct in connection with any proceedings under the [2][Indian Income-Tax Act, 1922 (Central Act XI of 1922)], or this Act by the authority empowered to take disciplinary action against members of the profession to which he belongs, or if any other person is found guilty of such misconduct by the Commissioner, the Commissioner may direct that he shall be thenceforward disqualified to represent an assessee under sub-section (1) :

Provided that—

(*a*) no such direction shall be made in respect of any person, unless he is given a reasonable opportunnity of being heard ;

(*b*) any person against whom such direction is made may within one month of the making of the direction, appeal to the prescribed authority to have the direction cancelled ; and

(*c*) no such direction shall take effect until one month from the making thereof, or, when an appeal is preferred, until the disposal of the appeal.

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1 Substituted by Act 29 of 1963

2 Now see the Income-Tax Act, 1961 (Central Act 43 of 1961)

(3) In this section—

(i) a person regularly employed by the assessee shall include any officer of a Scheduled Bank as defined in the Reserve Bank of India Act, 1934 (Central Act II of 1934), with which the assessee maintains a current account or has other regular dealings ;

(ii) "accountant" means a member of an association of accountants recognised in this behalf by the Government ;

(iii) "Income-tax practitioner" means an Income-tax practitioner as defined in the [1][Indian Income-Tax Act, 1922 (Central Act XI of 1922)] ;

(iv) "lawyer" means any person entitled to plead in any court of law in the State.

58. *Receipt to be given.*—A receipt shall be given for any money paid or recovered under this Act.

59. *Indemnity*—Every person deducting, retaining or paying any tax in pursuance of this Act in respect of any agricultural income belonging to any other person is hereby indemnified for the deduction, retention or payment thereof.

60. *Manner of service of notices.*—(1) A notice or requisition under this Act may be served on the person therein named either by registered post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908 (Central Act V of 1908).

(2) Any such notice or requisition may, in the case of a firm, **Hindu** undivided family, an Aliyasanthana family or branch or a **Marumakkathayam** tarwad or tavazhi be addressed to any member **of the** firm or to the manager, yajaman or karnavan, or any adult male member of the family branch, tarwad or tavazhi and in the case of any other association of persons be addressed to the principal officer thereof.

61. *Power to grant extension of time for returns, etc.*—The Agricultural Income-Tax Officer may in his discretion, in the case of any person or class of persons extend the date before which the return under sub-section (1) of section 18 has to be furnished or, on application by an assessee, allow him such extension or extensions of time as the officer thinks fit to furnish the return or comply with the terms of a notice under this Act.

1. Now see the Income Tax Act, 1961 (Central Act 43 of 1961)

62. *Powers to inspect registers of members of company, etc.*—The Agricultural Income-Tax Authority or any person authorised by him in writing in that behalf may inspect and, if necessary, take copies or cause copies to be taken of any register of the members, debenture holders or mortgagees of any company or of any entry in such register.

[1][62A. *Offences by companies.*—(1) If the person committing an offence under this Act is a company, the company, as well as every person in charge of, and responsible to, the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of, any director, manager, managing agent or any other officer of the company, such director, manager, managing agent or such other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director" in relation to a firm, means a partner in the firm].

63. *Power to make rules.*—(1) The State Government may, subject to the condition of previous publication, by notification in the official Gazette make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules—

(*a*) as to the manner in which and the procedure by which agricultural income of a person shall be computed;

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1. Inserted by Act 29 of 1963.

(*b*) as to the deductions to be made in the computation of agricultural income ;

(*c*) as to the special deductions and allowances where expenditure has to be incurred for a number of years before income is derived therefrom ;

(*d*) as to the form of returns under section 18 and the manner in which they should be verified ;

(*e*) as to the form of the notice of demand mentioned in section 31 ;

(*f*) as to the form in which appeals under sections 32 and 34 shall be presented and the manner in which they shall be verified ;

(*g*) as to the form of the notice of demand mentioned in sub-section (3) of section 37 ;

[1][(*h*) as to the form in which the petitions and applications under section 55 shall be presented and the manner in which they shall be verified ;]

(*i*) as to the manner in which and the authority to whom applications for refunds shall be made and the procedure to be followed in respect of such applications ;

(*j*) as to the authority by whom and the manner in which refunds shall be made ; and

(*k*) as to all other matters expressly required or allowed by this Act to be prescribed.

[2][(2A) Any rule under this Act may be made to have effect retrospectively and when any such rule is made, a statement specifying the reasons for making such a rule shall be laid before both Houses of the State Legislature along with the rule under sub-section (3). All rules made under this Act shall, subject to any modification made under sub-section (3), have effect as if enacted in this Act.]

[3][(3) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the

1 Substituted by Act 29 of 1963.
2 Inserted by Act 29 of 1963.
3. Substituted by Act 29 of 1963.

rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

64. *Bar of suits in Civil Courts.*—No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act and no prosecution, suit or other proceeding shall lie against any officer of the State Government for anything in good faith done or intended to be done under this Act.

65. *Computation of period of limitation.*—In computing the period of limitation prescribed for any appeal under this Act or for an application under section 55 the date on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

66. *Classification of land for composition of agricultural income-tax, etc.*—(1) Lands used for growing commercial crops other than [1][plantation crops, ganja or timber] shall be classified into eight classes as specified in Part II of the Schedule for determining—

(i) the extent of land entitled to exemption from payment of agricultural income-tax under clause (ii) of the first proviso to Part I of the Schedule ; and

(ii) the extent of the land and the rates for lumpsum payment to be made for purposes of composition of the agricultural income-tax under section 67.

(2) For purposes of sub-section (1), the total extent of land of any person shall be determined in terms of the eighth class of land in accordance with the formula in Part II of the Schedule for determining the equivalent extents of land of different classes.

(3) Where more than one crop or the same crop, is grown successively on any land during any year, the total extent of land shall, for purposes of sub-sections (1) and (2) be the aggregate extents of the lands on which each crop is grown during that year.

67. *Composition of agricultural income-tax.*—(1) Any person who derives agricultural income from land not exceeding one hundred and fifty acres in extent of the eighth class of land or an extent equivalent thereto consisting of any one or more of the classes of land specified in Part II of the Schedule, may apply to the pres-

1 Substituted by Act 29 of 1963.

cribed officer, for permission to compound the agricultural income-tax [1][and super-tax] payable by him and to pay in lieu thereof a lumpsum at the rate specified in sub-section (2).

(2) The rate of lumpsum payable under sub-section (1) shall be two rupees per acre of the eighth class of land.

(3) Every application under sub-section (1) shall be submitted in such form, in such manner and within such time as may be prescribed.

(4) The prescribed officer shall, after satisfying himself that the particulars specified in the application are correct, by order in writing grant the permission.

(5) Notwithstanding anything contained in sub-section (1) of section 66,

(*a*) in respect of perennial crops, the extent of land containing only plants or trees which have not reached the age of yielding crop shall, for purposes of composition of agricultural income-tax, be excluded from the total extent of land of any person ; and

(*b*) if the Government is satisfied that there has been any loss or damage to crops due to drought, pests or other natural causes,

the Government may, by notification in the official Gazette reduce the rates of lumpsum payable for compounding the agricultural income-tax in such areas for such crops and during such years as may be specified in the notification.

(6) The permission granted under sub-section (4) shall be in force for the year for which it is granted ; and in respect of that period the provisions of this Act regarding the submission of returns, accounts or other documents, the assessment to agricultural income-tax or any other matter incidental thereto shall not apply in relation to the grantee.

68. *Amendment of Madras Act XIX of* 1954.—In section 3 of the Madras Land Revenue (Surcharge) Act, 1954 (Madras Act XIX of 1954), Explanation II shall be omitted.

69. *Repeal and savings.*—(1) The Coorg Agricultural Income-tax Act, 1951 (Coorg Act I of 1951) as in force in the Coorg District, the Hyderabad Agricultural Income-tax Act, 1950 (Hyderabad Act

1 Inserted by Act 31 of 1962.

XIII of 1950) as in force in the Hyderabad Area, the Madras Plantations Agricultural Income-tax Act, 1955 (Madras Act 5 of 1955) as in force in the Madras Area and the Mysore Agricultural Income-tax Act, 1955 (Mysore Act 4 of 1955) as in force in the Mysore Area, are hereby repealed :

Provided that such repeal shall not affect—

(*a*) the previous operation of the said enactments or anything duly done or suffered thereunder ; or

(*b*) any right, privilege, obligation or liability acquired accrued or incurred under the said enactments ; or

(*c*) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said enactments ; or

(*d*) any investigation, legal proceeding (including assessment proceeding) or remedy in respect of any such right, privilege, obligation, liability, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed.

(2) Notwithstanding anything contained in sub-section (1), for the purpose of giving effect to the preceding proviso to the said sub-section (1), the State Government may, by notification, in the official Gazette, make such provision as appears to it necessary or expedient—

(*a*) for making omissions from, additions to and adaptations and modifications of the rules, notifications and orders issued under the repealed enactments ;

(*b*) for specifying the authority, officer or person who shall be competent to exercise such functions exercisable under any of the repealed enactment or any rules, notifications or orders issued thereunder as may be mentioned in the said notification.

[1][(3) Notwithstanding anything contained in sub-section (1) nothing contained in any of the repealed enactments limiting the time within which any action may be taken or any order, assessment or re-assessment may be made shall apply to an assessment or re-assessment made on the assessee or any person—

(1) in consequence of, or to give effect to, any finding, direction or order made under any provision of the relevant

1 Inserted by Act 25 of 1962.

repealed enactment or any judgement or order made by the Supreme Court, High Court or any other court whether before or after the commencement of this Act;

(ii) to rectify any error on account of the assessment of such assessee or person under this Act, instead of under the relevant repealed enactment, provided such assessment or re-assessment under the repealed enactment is made within a period of two years from the date of commencement of the Mysore Agricultural Income-Tax (Amendment) Act, 1962.

70. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to the provisions of this Act in consequence of the transition to the said provisions from the provisions of the Acts in force immediately before the commencement of this Act, the State Government may by order published in the official Gazette, make such provisions as appear to it to be necessary or expedient for removing the difficulty.

(2) If any difficulty arises in giving effect to the provisions of this Act (otherwise than in relation to the transition from the provisions of the Acts in force before the commencement of this Act), the State Government may, by order published in the official Gazette, make such provisions, not inconsistent with the purposes of this Act, as appear to it to be necessary or expedient for removing the difficulty.

SCHEDULE

PART I

(*See Section* 3)

RATES OF AGRICULTURAL INCOME-TAX

(1) On the first Rs. 1,500 of total agricultural income.	Nil.
(2) On the next Rs. 3,500 of total agricultural income.	Threenaye paise in the rupee.
(3) On the next Rs. 5,000 of total agricultural income.	Six naye paise in the rupee.
(4) On the next Rs. 5,000 of total agricultural income.	Nine naye paise in the rupee.
(5) On the next Rs. 5,000 of total agricultural income.	Twelve naye paise in the rupee.
(6) On the next Rs. 5,000 of total agricultural income.	Fifteen naye paise in the rupee.
(7) On the next Rs. 10,000 of total agricultural income.	Eighteen naye paise in the rupee.
(8) On the next Rs. 15,000 of total agricultural income.	Twenty-one naye paise in the rupee
(9) On the next Rs. 50,000 of total agricultural income.	Twenty-five naye paise in the rupee.
(10) On the balance of total agricultural income.	Forty naye paise in the rupee :

Provided that no agricultural income-tax shall be payable—

(i) on a total agricultural income which does not exceed three thousand five hundred rupees ; or

(ii) by a person who derives agricultural income from land not more than fifty acres of the eighth class of land or an extent equivalent thereto consisting of any one or more of the classes of land specified in Part II.

The limit referred to in the above proviso shall be seven thousand rupees in the case of every Hindu undivided family or an Aliyasanthana family or Branch or Marumakkatayam tarwad or tavazhi including a Nambudiri family or any other class governed by the law applicable to Nambudiris, which satisfies as at the end of the previous year the condition that it consists of at least five members :

Provided further that the agricultural income-tax payable shall in no case exceed one-half of the amount by which the total agricultural income exceeds three thousand five hundred rupees or seven thousand rupees, as the case may be.

[1][PART I-A]

(*See section 53-A*)

RATES OF SUPER-TAX

(1) On the first Rs. 25,000 of the total agricultural income.	Nil.
(2) On the next Rs. 25,000 of the total agricultural income.	Nine naye paise in the rupee.
(3) On the next Rs. 25,000 of the total agricultural income.	Twelve naye paise in the rupee.
(4) On the next Rs. 25,000 of the total agricultural income.	Fifteen naye paise in the rupee.
(5) On the balance of total agricultural income.	Twenty naye paise in the rupee.

PART II

(*See Sections 66 and 67.*)

A. CLASSIFICATION OF LANDS

First Class

Land used for growing grapes.

Second Class

Land used for growing areca.

Third Class

Land used for growing chillies (irrigated), ginger, mulberry (irrigated), plantain (irrigated), potato (irrigated), sugarcane, tobacco (Nippani and Virginia) or turmeric.

Fourth Class

Land used for growing chillies (non-irrigated), coconut, cotton (irrigated), garlic, onion or potato (non-irrigated).

Fifth Class

Land used for growing tobacco (other than Nippani and Virginia tobacco).

Sixth Class

Land used for growing mulberry (non-irrigated).

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1 Inserted by Act 31 of 1962.

Seventh Class

Land used for growing mango.

Eighth Class

Land used for growing castor, corriander, cotton (non-irrigated), groundnut, karad, mustard, nigar or sesamum (til).

B. *Formula for determining equivalent extent of land of different classes*

Fifty acres of Eighth Class of land=25 acres of Seventh Class of land =18 acres of Sixth Class of land=15 acres of Fifth Class of land=12 acres of Fourth Class of land=6 acres of Third Class of land=5 acres of Second Class of land=3 acres of First Class of land.